

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING
ON MONDAY, MARCH 5, 2007.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:32 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Zurschmiede, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, and President Larry Kochert. Mr. Schmidt and Mrs. Crump were absent.

OTHERS: Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

ALSO: John Rosenbarger, Planning and Zoning, Shane Gibson, City Attorney, Anthony B. Toran, Director of City Operations and Mayor James E. Garner, Sr.

Mr. Kochert presented the calendar months of March, August and November and stated that some felt that they needed to moving the meetings because they were so close together in those months.

Mr. Coffey stated that he didn't think that the November meeting should be moved just for the election.

Mr. Kochert stated that it wasn't being moved because of the election but because of the amount of time between the meetings. He stated that they would vote on each month by show of hand as follows:

To move the March 15 meeting to March 22 all voted in favor by show of hand.

To move the August 16 meeting to August 23 all voted in favor by show of hand.

To move the November 8 meeting to November 1 Mr. Price, Mr. Gahan, Mr. Blevins, Mr. Messer and Mr. Zurschmiede voted ayes and Mr. Coffey voted nay by show of hand.

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Blevins stated that he did not pull the fire hiring ordinance from the agenda for the February 15 meeting. He stated that he went to the City Clerks office the day before the packets went out around 3:30 p.m. and he had intended to ask Ms. Wisman to put it on the agenda for a second reading only. He stated that he didn't approve of using lengthy discussions in the meeting minutes because he wants to know what is being said and has a right to know. He said that he did say to put it on the agenda or to pull it and he wants to know who took it upon themselves to make the decision to pull it and just because he isn't in attendance at the meeting doesn't mean the item shouldn't be on the agenda.

Ms. Wisman explained that Mr. Blevins did in fact come into her office the day the packets went out but he asked if the item was on the agenda and was told that it was not because there was some question as to whether or not it had failed because of the vote. She stated that Mr. Blevins response was "good can we put it on there for the second meeting in March."

Mr. Blevins stated that he wanted it on for the second reading on that date but he didn't get to the clerks office in time and since he didn't ask for it to be removed it should have came forward. He explained that he was not going to be at the following meeting so he asked when he came in if it could be put on for the second meeting in March when he knew he would be there for a second and third reading, but he did not request that it be removed. He stated that he believes where there is any discussion about a council

member that is not present it should not be abbreviated into a lengthy discussion because they have a right to be able to look back and see what was said.

Ms. Wisman explained to Mr. Blevins that the amount that they spoke about him in that meeting was in the minutes and that the lengthy discussion was not about him.

Mr. Blevins stated that he didn't know that and it left room for doubt.

Mr. Kochert stated that there wasn't anything to do rectify that it wasn't on the agenda but asked what could be done to correct the minutes.

Mr. Messer stated that Ms. Wisman explained that there was some question as to whether or not it was dead and the question hadn't been addressed by the council and he believes it was the appropriate thing to do in keeping it off until Mr. Blevins could be present to verify if it was in fact still up for a vote. He said he doesn't believe anyone is at fault but that they were just unclear as to what the procedure was but it was on the agenda now so obviously they consider it a live issue.

Mr. Gahan stated that it is a different issue tonight because there is a different composition of councilmen present and there has to be a rule that if something is introduced it has to come forward automatically.

Mr. Messer restated that they were waiting for clarification from the council on whether or not the issue was dead.

Mr. Blevins stated that it would have been beneficial if that had been reflected in the minutes rather than making it look like he didn't put it on the agenda and he wants the record to show that he didn't pull it.

Mr. Messer said that Mr. Blevins can state for the record in these minutes that he didn't pull it, but he already stated that he never told Ms. Wisman to pull it or put it on there so the minutes from February 15, 2007 should not be changed to state that he didn't pull it.

Mr. Blevins said that it should have automatically have been on there

Mr. Messer said that they were waiting for clarification on the issue.

Ms. Wisman stated that she has a file full of dead ordinances that the council voted down on the first vote and wants to know if these should automatically go back on the agenda as well.

Mr. Kochert stated that it seems that should be the case although they have never done it before.

Mr. Messer stated that if they go by that standard then according to past precedent it should not come back up.

Mr. Coffey said they can't do that because in the past they had one come back up because it didn't get three readings.

Ms. Wisman explained that it was a PUD that came back up and state statute stipulates that PUD's will have three readings.

Mr. Coffey asked the council where they stood on ordinances.

Mr. Ulrich stated that the language of the current ordinance requires that all opposed ordinances receive three readings.

Mr. Zurschmiede asked if that was past practice because he has spoken with two separate attorneys about this and was informed that if it was voted down on the first reading then it was dead. He explained that he was told that it is basically interpretation

and the local ordinance may need to be clarified but that state statute supersedes the local ordinance and state statute says that it is dead.

Mr. Ulrich stated that on a zoning ordinance state statute controls, but they have a city ordinance 30.36 subparagraph B that says all ordinances shall be read at least three times and that is the bottom line. He explained that the first vote is to consider the ordinance and that vote should send it to a committee, the second reading should be as amended if there are any amendments and it is on the third reading that it is passed.

Mr. Kochert stated that this is true unless the sponsor pulls it or is put into a committee.

Mr. Ulrich stated that once it gets the first reading and unless it goes into committee, then something has to be done with it whether it is voted on or tabled for further discussion.

Mr. Coffey said according to that standard this particular ordinance wouldn't have been on the agenda because it was in committee to be reviewed.

Mr. Zurschmiede asked if there was a reason that the clerk was using lengthy discussion instead of flushing out what was said, and stated that because he wasn't at the meeting he would like to know what was said.

Ms. Wisman stated that if they want a dictation of the meeting it would be a lengthy thing to do.

Mr. Ulrich stated that the minutes were not intended to be a transcript of the meeting but a brief overview of what happened at the meeting.

Mr. Messer said they do have access to recordings of the meetings.

Ms. Wisman stated that every meeting has been taped for the last three years and they are available in her office.

Mr. Coffey moved to approve the meeting minutes of February 15, 2007, Mr. Price second all voted in favor. Mr. Blevins and Mr. Zurschmiede abstained.

Mr. Coffey moved to have the CF-1 forms moved up on the agenda, Mr. second all voted in favor.

APPROVAL OF CF-1 FORMS:

Woods Bay Lodging, Compliance with Statement
of Benefits, Referencing R-98-40

Mr. Messer moved to approve, Mr. Coffey second, all voted in favor.

S & H Properties, LLC, Compliance with Statement
of Benefits, Referencing R-00-48 & R-99-15

Ms. Wisman informed the council that Mr. Harbison had called her and asked to be tabled until the next meeting.

This item was tabled.

Retailers Supply Company, Inc. Compliance with Statement
of Benefits, Referencing R-04-33

Mr. Gahan moved to approve, Mr. Messer second, all voted in favor.

Carlisle Family, LLC, Compliance with Statement
of Benefits, Referencing R-99-17

Mr. Coffey moved to approve, Mr. Gahan second, all voted in favor.

Fire King International, Inc. Compliance with Statement of Benefits, Referencing R-99-16

Mr. Messer moved to approve, Mr. Price second, all voted in favor.

Community First Holdings, Inc, d/b/a Tribune Compliance with Statement of Benefits, Referencing R-97-37

Mr. Gahan moved to approve, Mr. Blevins second, all voted in favor.

Billie & Gloria Faith, d/b/a Casino Cash & Lucky Liquors Compliance with Statement of Benefits, Referencing R-00-22

Mr. Coffey moved to approve, Mr. Messer second, all voted in favor.

Gordon & Jeffery Huncilman, d/b/a Huncilman Enterprises Compliance with Statement of Benefits, Referencing R-96-03

Mr. Gahan moved to approve, Mr. Messer second, all voted in favor.

ICIM Corporation, d/b/a Planet Telecom, Compliance with Statement of Benefits, Referencing R-01-02

Mr. Coffey moved to approve, Mr. Messer second, all voted in favor.

Lukemeier Enterprises, d/b/a Limmco, Inc., Compliance with Statement of Benefits, Referencing R-99-06

A representative was not present and the item was tabled.

Lumley Enterprises, Compliance with Statement of Benefits, Referencing R-04-36

Mr. Messer moved to approve, Mr. Gahan second, all voted in favor.

Robert & Brenda Sprigler, d/b/a Sprigler Door Service, Compliance with Statement of Benefits, Referencing R-00-21

Mr. Messer moved to approve, Mr. Zurschmiede second, all voted in favor.

David Stemler, d/b/a PC Building Materials, Inc., Compliance with Statement of Benefits, Referencing R-95-19 & R-04-31

Mr. Coffey moved to approve, Mr. Messer second, all voted in favor.

COMMUNICATIONS – PUBLIC:

David Huckleberry discussed the resolution for paving and milling he stated that he feels that all the pot-holes need to be fixed rather than fixing a few streets for a political year. He also discussed the fire hiring procedure and he feels that the written test should be raised 10% more than the agility. He also discussed the additional appropriations and stated that they need to hold up on these until the State gets back with the budget.

Yvonne Kersey, discussed her concerns with the year end budget and the amount of time it may be before the State approves the budget for this year. She had concerns regarding the appropriations without the budget being approved and also discussed her concerns with the fire hiring ordinance.

Daniel Downs, NAFD, spoke regarding the fire hiring ordinance and stated that they have tried to get good candidates for the department. He stated that at this time they need to hire 10 new fire fighters to the department back to where it needs to be and if there were 82 fire fighters overtime would not be such an issue. He stated that they have established that all candidates have to be first-responders, which is the equivalent of a basic EMT, and you have to have some intelligence to pass that test and he thinks it is important to have some type of intelligence test whether it is the one they have now or something different.

Rev. Lacy Evans, Jones Memorial AME, supported Mr. Coffey’s proposal for the fire hiring ordinance to be rescinded due to the current ordinance being originally passed as a pilot program.

Edward Scott, retired fire fighter, spoke in support of rescinding the current fire hiring ordinance. He felt that in order to get a more equitable hiring practice this is necessary. He felt the testing is not an issue and that he would just like to see minorities kept in position in the fire and police departments. He stated that he doesn’t support G-06-24 and if they want to use a merit system it may be the best thing, but in order to have minorities in place you will have to have two hiring lists because of the percentage of candidates that are minorities.

COMMUNICATIONS – CITY OFFICIALS:

No one spoke

COMMUNICATIONS – MAYOR:

Did not speak

APPOINTMENTS:

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-07-09	Resolution to Use \$500,000 From the EDIT Fund for The Paving and Milling of Streets in New Albany	Gahan
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Mr. Gahan moved for the reading of R-07-09, Mr. Coffey second,

Mr. Coffey stated that this council hasn’t had money to work with for many years because of the past administration. He said that they did overspend paving in the election year alone by \$1.5 million therefore they didn’t get to do paving, so to say they are only paving because it is an election year isn’t accurate. They are paving because this is the first time they have had the money to do so.

Mr. Messer stated that everyone wants to know which streets are going to be fixed.

Mr. Price asked Mrs. Garry how long it would be before the budget would be approved.

Mrs. Garry stated that there will be a waiting period.

Mr. Price said that he agreed with Mr. Messer and he would like to know what work is going to be done and on what streets.

Mrs. Garry stated that they have more than \$500,000

Mr. Price stated that they have \$300,000 plus five and asked Mayor Garner what his plan was.

Mayor Garner stated that there are streets in every district that need to be fixed and it was his intention to consult the council members about each district and set up a priority

list. He said that this is not a political issue, but a necessity because they haven't paved in almost four years.

Mr. Coffey asked if they had a cost projection if they fixed all the pot-holes in New Albany.

Mayor Garner stated that if they used all the money to fill all the pot-holes this year they will be spending the same amount next year to do the same thing. He explained that you can fill a pot-hole 10 times a year.

Mr. Blevins agreed with the Mayor and stated that he saw this happen when he worked for the street department.

Mr. Zurschmiede asked if the street department was going to come up with a list or if the council was going to come up with the list.

Mayor Garner stated that he would like to have the council members make a list of the roads in their districts and then combine that with the list that they have and figure out what they are going to prioritize.

Mr. Blevins stated that he thinks before any money got spent a list should have been presented of what needed to be fixed and the council could justify the \$500,000.

Mr. Kochert stated that he was talking with Mr. Price, Mr. Zurschmiede and Mrs. Garry before the meeting and he got the feeling that Mrs. Garry didn't want to spend any money until they got the budget back.

Mrs. Garry stated that she has a feeling that when the budget comes back we are going to have to tighten our belts even more this year.

Mr. Messer stated that if they appropriate the money it doesn't mean it is going to be spent and that they can come back and say they can't afford it.

Mrs. Garry said that is correct and she explained that they have \$300,000 appropriated from the LRS fund with the possibility of \$150,000 later in the year.

Mr. Messer asked Mrs. Garry how she felt about spending that money for paving when paving is ready to be paid.

Mrs. Garry stated that they can do all the appropriations they want but they are going to be put on hold.

Mr. Coffey asked Mrs. Gary why she felt like her budget was going to be cut.

Mrs. Garry said because of how the general fund was shut out at the end of 2006 and because there was a large number of people who have not paid their property taxes.

Mr. Messer asked if it was because of the overtime.

Mrs. Garry stated that was part of the reason.

R-07-09 did not pass with a vote of three aye from Mr. Coffey, Mr. Gahan, and Mr. Messer, and four votes of nah from Mr. Price, Mr. Blevins, Mr. Zurschmiede and Mr. Kochert.

R-07-10	A Resolution to Fund Five (5) New City Police Cars Out of the Riverboat Fund	Coffey
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Mr. Coffey moved for the reading of R-07-10, Mr. Gahan second,

Mr. Coffey asked Mrs. Garry if this money has already been set aside.

Mrs. Garry stated that this money is not set aside but it is appropriated

Mr. Messer asked if he knew how much five new cars would cost.

Mr. Coffey stated that it is in the resolution \$132,500 and he also said there is a stipulation in the resolution that all new cars will be issued to police officers who reside within the city limits.

Mr. Price stated that the committee met with the Mayor and the Chief of Police and read the amendments that they discussed in that meeting. Said amendments are on file with the city clerk's office. He stated that this is similar to the one that has been used in Jeffersonville since 1993 and this is simply concurring with State Statute mileage laws to be maintained and he doesn't think that any of the amendments are unreasonable.

Mr. Messer stated that there is a contradiction because section three requirement states that no city vehicle may be used in working for any other place of employment other than the city of New Albany or when the employee is off duty and then they expect the officer to pay \$50.00 per pay period to cover vehicle operational cost for personal use.

Mr. Price asked Mr. Messer what he would suggest.

Mr. Messer stated that if they are going to be forced to pay money then the officer should be able to use the car for personal use

Mr. Kochert stated that personal use was meant to mean back and forth to work.

Mr. Messer stated that there are some officers that only live two-tenths of a mile outside the city.

Mr. Price stated that \$25.00 for gas is not a lot of money and that he spends that just driving around town.

Mr. Messer stated that he doesn't think that is too much money for gas he just wanted to point out the contradiction in the wording.

Mr. Price stated that they can change that and asked Mr. Coffey if he thought the amendments were fair.

Mr. Coffey stated that he is fine with Mr. Price's suggestions but that needs to be an ordinance and what is being discussed now is a resolution.

Mr. Kochert asked if they could add an "also" to the resolution to include what Mr. Price presented.

Mr. Coffey stated that resolutions aren't binding.

Mr. Kochert asked for clarification that as a resolution, the stipulations do not have to be carried out.

Mr. Coffey said that was correct and he explained that he has listened to the council for the last seven years talk about issues with take home cars and nothing has been done. He said he is frustrated because this is money that is already appropriated, it isn't new money taken from the budget and they have made a compromise from ten to five cars that saves \$132,500. He stated he has no problem with an ordinance, but this is a resolution designating the money and there has to be a point where they follow procedure instead of wishing and wanting what they would like it to be.

Mr. Kochert stated that the "also" needs to be taken out in that case.

Mr. Price said that Mr. Ulrich informed him that they can amend what he proposed and put it on the resolution.

Mr. Coffey stated that there is a committee of Mr. Price, Mr. Kochert and Mr. Zurschmiede and they need to bring back an ordinance.

Mr. Price said why not table it and come back with an ordinance.

Mr. Coffey said because they need the cars.

Mr. Messer said the resolution would be over at the first of the year.

Mr. Coffey said they need to make it law

Mr. Price said that is fine but if they are going to appropriate money for the cars it should be in writing with stipulations.

Mr. Coffey said it isn't binding in that form and to come back with an ordinance.

Mr. Price stated that he feels like they should have waited to do this because the committee only had one meeting and they needed more time to discuss it.

Mr. Kochert asked Mr. Zurschmiede what his opinion was on the matter since he is part of the committee.

Mr. Zurschmiede asked Mr. Ulrich if the council was correct in stating that if they attach these amendments to the resolution that it isn't binding, and do they need to bring it back as an ordinance.

Mr. Ulrich stated that even if they amend it, it is still a resolution and is not binding.

R-07-10 did not pass with a vote of four aye votes from Mr. Coffey, Mr. Gahan, Mr. Zurschmiede, and Mr. Blevins, two nay votes from Mr. Price and Mr. Kochert. Mr. Messer abstained.

A-07-07	Additional Appropriation	Crumph 1
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Mr. Blevins moved for the first reading of A-07-07, Mr. Coffey second, all voted in favor.

G-07-03	Ordinance to Amend the Construction Runoff Quality Management Ordinance (G-06-03) to Provide for the Collection of Plan Review and Permit Fees	Coffey 1
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Mr. Coffey moved for the first reading of G-07-03, Mr. Zurschmiede second,

Mr. Deatrick addressed the council and gave a brief over-lay of the ordinance. He explained the Floyd County Soil and Water Conservation District and stated that they are required pay the district for their services. He explained that if this amendment is not passed it will have to come out of the stormwater revenue.

All voted in favor.

G-07-04	An Ordinance to Establish a Fund for the Deposit Of Fees Paid To the City of New Albany, Indiana For Construction Site Plan Review and Inspection	Coffey 1
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Mr. Coffey moved for the first reading of G-07-04, Mr. Messer second, all voted in favor.

G-07-05	An Ordinance to Repeal Chapter 32, Section 32.80 Through Section 32.88, New Albany Fire Department Candidate Selection Process Act	Coffey 1
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Mr. Gahan asked Mr. Coffey if there was any way to hold off on this until the council acts on G-06-21

Mr. Coffey stated that he will introduce it but he can always pull it off if there are unanswered questions.

Mr. Coffey moved for the first reading of G-07-05, Mr. Gahan second,

Mr. Messer stated that because we are trying to bring a new one on we don't need to repeal the old one. He stated his personal opinion is that there is nothing wrong with the ordinance but it needs to be amended and he said that the council's attorney isn't comfortable with either ordinance.

Mr. Ulrich stated that he believes it is extremely vulnerable to a court challenge.

Mr. Coffey stated that if Mr. Ulrich doesn't feel like either ordinance would hold up in court then they should go back to the way it was before either ordinance.

Mr. Kochert asked Mr. Ulrich if he thought that would stand up in court.

Mr. Ulrich stated that he doesn't know how it was done before so he couldn't say.

Mr. Kochert asked if anyone knew how it was done before

Mayor Garner explained that it is done by state statute

Mr. Coffey explained that if they go back to the original there was the agility and you didn't have to have the written, but they did have a written portion. He said the thing that bothers him is that every fireman on there now with the exception of the last 8 got their jobs the old fashion way, and now they are being told that isn't good enough and he has a hard time knowing that kids from New Albany that go in for the job do not have the right last name or you know the right person to get the job. He said the test doesn't mean you are or are not smart, but you can keep coming back and taking the test until you pass the test and before the practice was that each individual took the test and they didn't re-test until they ran through them all, and it could be four or five years before you were able to take it again then it changed to a year and some got to come back and re-test but he guarantees that none of the kids in his district didn't know that they could come back. He stated that the system that they have now is unfair and he wants all of the kids in the community to have the same opportunity.

Steve Bird, NAFD, stated that in 1991 they created an agility test he explained that test consisted of several phases that you would do on a fire scene that would pass state law. He said that everyone on the fire department took the test and the point was to make sure that each candidate was physically fit and able to do the job. He explained that the times tuned in by those firefighters were then averaged to compile the test times. He said the test were created to give everyone a fair chance, the candidates received a packet three months in advance explaining what was expected of them and then they were given the test. He stated that they don't have a merit system and it is the fire departments fault because they voted it down. He said they need to take the test like it used to be, if you couldn't pass the agility test you didn't make it and the mental aspects could be developed with training. He said the top times were taken regardless of their name or who they knew and it worked just fine.

Mr. Messer asked if it was based solely on the time each candidate turned in.

Mr. Bird said that is how they established eligibility and they didn't have any problems with this process.

Mr. Messer asked if they could amend what they have now to make it work.

Mr. Bird said the easiest way to amend it would be to go back to the way it was. He stated to keep the agility test the way it was or take the times of the fire fighters now to create the test but start somewhere that will create a test that is fair.

Mr. Kochert asked Mr. Bird if the needs of the department have changed

Mr. Bird explained that the need has changed because they are now more of an EMS provided service.

Mr. Kochert said that the department should change as the needs of the community changes.

Mr. Bird said that even though you passed the agility test it didn't change your training in the probationary period. Each candidate still had to become an EMT and be able to pass that test and if you are unable to pass it, the state gives you a second chance to pass and he believes that should be the last chance they get. He explained that if in that year of probation the candidate wasn't meeting the criteria they could be removed and that practice is no longer followed. He stated that this is the same principal as the merit system and it should be done that way instead of working around it.

Mr. Blevins stated that rather than continuing to bring items forward to be voted up or down why not give it to an attorney to write properly.

Mr. Zurschmiede asked what the problem would be with giving them a written test up front that is supposedly at an 8th grade level.

Mr. Price stated that he is not in the aspect of giving the test out but he would say that the test would have something to do with fire services as well as general education. He explained that there are state standards that have to be passed as well as EMT requirement that have to be passed and these are requirements of the job. He said the only problem he has with some of the test that he has seen is that they don't really pertain to fire service but is just general education. He said state statute requires that each candidate have a high school diploma or a GED and if they have that they should be able to be on the fire department.

Mr. Messer asked if the city pays for the EMT training.

Mr. Bird said that they do

Mr. Messer asked if it would be beneficial to the department as well as the city to have someone that is already certified in EMT.

Mr. Bird said in his opinion that it would not be beneficial because it is discriminatory because a person that isn't a certified EMT doesn't have the same opportunity to be considered for the department and it isn't required for the job.

Mr. Kochert stated that they should hire people based on the need of the community.

Mr. Bird stated that the Fire Department needs firefighters. The candidates are being hired as firefighters first and then they go through the additional training to become first responders. They aren't hiring EMT's to be trained as firefighters; they are hiring firefighters who are trained as first responders and working up to EMT's.

Mr. Price stated that the Ordinance was passed in 2003 with a unanimous vote so obviously the council thought the 65% was fair and he wanted to know what had changed.

Mr. Coffey stated that if you go back and listen to the tapes the council will understand it was one of the toughest compromises that the council made to even get the ordinance to being close to fair. He said now they have the opportunity to revert back to the old system and that system has produced some very good firefighters.

Mr. Blevins stated instead of just voting thing up or down the council should turn it over to an attorney that can write it in the correct manner and take it out of the council's hands.

Mr. Gahan stated that they need to be looking at the ordinance it question. He explained that it stated that the candidate has to pass a written test, but it doesn't stipulate what passing is. He stated that it says the top 25 scorers will go on to the interview process and he has a problem with that because if there are only 10 candidates and they all score a ten on the test then they all go to the interview process. He stated that the ordinance was designed to hire the brightest, but it doesn't do what it was intended to do and he thinks it is just a mess and the council attorney has told them that it is a mess.

Mr. Kochert stated that it needs to go back to the group with the two tier system. He explained that the Fire and Police Department take up 80% of the budget and some cuts are going to have to be made.

Mayor Garner stated that he said if they were able to find 10% in each budget they should pay for all their equipment within their own budget.

Mr. Coffey stated that our budget has been stagnant for several years and this council and the previous council have stopped almost all development that would actually bring in more revenue. He explained that if they focus on getting development in the city the budget will go up and theirs will go down even though it is staying the same.

Mayor Garner explained that in order for the tax base to go up the tax rate needs to be raised.

There was a lengthy discussion regarding tax rates/development and how it would affect the budget.

Mr. Coffey stated that this is a hiring ordinance not a wage ordinance

Mr. Zurschmiede stated that after reading the council attorney's opinion he believes that this needs to go back to a committee and the committee needs to be composed of council members the council attorney representatives of the Fire Department and the Mayor to come up with something that is fair to everyone.

Mr. Blevins again stated that this needs to go to an attorney so that they can be done with this thing.

Ordinance G-07-05 did not pass with two aye votes from Mr. Coffey and Mr. Gahan, and five nay votes from Mr. Price, Mr., Blevins, Mr. Messer, Mr. Zurschmiede, and Mr. Kochert.

Z-07-05	An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by Marlin Andres	Blevins 1
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Mr. Blevins moved for the first reading of Z-07-05, Mr. Coffey second, all voted in favor.

Z-07-06	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156, (Docket P-01-07: Charlestown Crossing I, LLC by Gary McCartin)	Zurschmiede1
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Mr. Zurschmiede moved for the first reading of Z-07-06, Mr. Coffey second, all voted in favor.

Z-07-07	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156, (Docket P-03-07: Sprigler Development Co., Inc.)	Zurschmiede1
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Mr. Zurschmiede moved for the first reading of Z-07-07, Mr. Coffey second,

Mr. Price asked what the change would be.

Mr. Wood stated that the original approval was for 3500 square foot for the restaurant 3000 square foot for Retail Medical Sales and 500 square foot for the coffee shop, and the request is to change it to 2500 for the restaurant and 1000 for Retail Medical Sales.

All voted in favor.

A-07-03 Additional Appropriation

Gahan 2&3

Mr. Gahan moved for the second and third reading of A-07-03, Mr. Messer second, all voted in favor. Bill A-07-03 became Ordinance A-07-08.

G-06-21 An Ordinance to Amend Section 32-80 of the Code
Of Ordinances: The New Albany Fire Department
Candidate Selection Act

Blevins 2&3

Mr. Blevins moved for the second reading and for it to go to committee and for all the appropriate participants to be involved of G-06-21, Mr. Gahan second,

Mr. Gahan asked if it was going into committee and if it was going to take another two or three months on it.

Mr. Coffey asked if this is a hiring ordinance or a salary ordinance and whether or not what they have to work with is salvageable

Mr Kochert appointed Mr. Messer, Mr. Zurschmiede, Mr. Price and himself and Mr. Messer will chair.

G-06-21 passed with five aye votes from Mr. Coffey, Mr. Price, Mr. Gahan, Mr. Blevins, and Mr. Messer and two nay votes from Mr. Kochert and Mr. Zurschmiede.

MISCELLANEOUS COMMUNICATIONS: (public comments on non-agenda items)

Yvonne Kersey discussed the year end financial and the amount that the sanitation department is in the red; she also discussed issues with stormwater

Mr. Gahan thanked the Sewer Board for the credit list.

Mr. Kochert stated that they credits are depending on the projects such as Robert E. Lee getting done which were setting on the shelf with no money.

Mr. Deatrick stated he was there to give the council some updates and wanted to address what Ms. Kersey has said about stormwater running with excess revenue. He said that they are the only department that is running with excess revenue and he feels like that is a job well done. He explained that the financials are being held up by the State Board of Account but they will be receiving a 6 month report in April and that they will provide the council with 2008 budget in early to mid May. He stated that they are being financial prudent in spending the stormwater dollars. He explained that \$0.52 of the \$3.17 user fee is going towards the cost of the mandated permit from the state and the rest is going to operation/maintenance. He stated that they have a professional management team in place that provides monthly reports to EMC that shows the work they are doing and that FMSM has provided training to the sewer staff so those services won't have to be contracted out anymore and that is a saving to the tax payers of the city. He stated that he is here to be a source of information to the council

Mr. Price asked to pull R-07-08 off the tabled ordinances.

Mr. Messer presented a committee report that the city clerk read into record.

Mr. Coffey stated that he was on the committee in the beginning and dropped off because all the blame being pointed back and forth. He said there is enough of that and they just need to find a solution to the problem and find the money for the ambulances and he stated that this fact sheet is doing nothing to solve that issue.

Mr. Messer stated that this is not about the money

Mr. Coffey asked Mr. Messer if there was anything in this report that addressed what they intend to do about the problems with the ambulance service.

Mr. Messer stated that the last fact points out that the Mayor won't hire new firefighters because the ordinance is not suitable to his people.

Mayor Garner asked for clarification on what "his people" means and stated that the report is ridiculous. He stated that is not their decision for firefighters to take a vote of competence on the chief.

Mr. Messer stated that he is just explaining what came from the committee and he thinks the firefighters deserve good leadership.

Mayor Garner stated that Chief Toran is one of the best leaders the Fire Department has had.

Mr. Messer stated that the firefighters are obviously not confident in the job that he does. He explained that he is not the one saying this, but it is the chief's firemen.

Mayor Garner stated that in every organization there is a hierarchy and there will be individual that have issue with the authority figure in that hierarchy, but there are other opinions out there that the committee members never bothered to seek out. He explained that Chief Toran knows more about how the Fire Department is ran than any other person on the department and has been chief longer than anyone on the department and he feels that the council needs to be talking to him not just his firefighters.

Chief Toran stated that he has been chief for eleven year so he must be doing something right. He explained that he enforces the rules with the firemen and sometime they don't like that, but if you look at the books they are straight. He feels like the council doesn't want to hear the truth. He stated that he is a good leader and does him job to the best of his ability but he knows the firemen that come off the ambulances aren't happy because there aren't enough people to put on the ambulance service. He stated that the council wants to crucify people without knowing the entire story. He pointed out individuals in the audience that had been disciplined for causing trouble.

Mr. Blevins stated that Chief should not be discussing disciplinary actions or the jobs of those individuals at this meeting and stated that he did so only to get in onto public record.

Chief Toran stated that none of the things that were said about him should be put into public record either.

Mr. Blevins stated that the chief has a chance to defend himself about what was said and that Mr. Messer was the one that brought the report to the council not the fireman.

Chief Toran addressed the issue with the equipment not being used and explained that he spoke with Mr. Messer about this and that he has never been to the fire house to see it. He said there was a committee composed of two deputy chief and a major that reported to the chief that they don't have enough manpower yet to use it and when they can hire some more firefighters they will be able to use it, but that he didn't purchase that equipment so he can't be crucified for not using it. He also addressed the issue with moving personnel

around and stated that the council gave him \$75,000 dollars in December to move people to the ambulance service so that is what they did and that move affected everyone else. Chief explained to the board that anytime they want to come to the office and hear the facts they are more than welcome and he said that he runs a good department and they will be willing to hear anything the council has to say. He asked about the vacant positions and promotions that the committee report referred to as well.

Mr. Kochert asked Mr. Messer if he knew what positions or promotions were open

Mr. Messer stated that there are positions such as a pumper or piper and if a guy has the position to take it like a promotion and he doesn't have to move his stuff. He stated that there is a fireman with 3 years on the department that has a permanent position and another fireman that has 7 years on the department that is still floating around and those jobs weren't posted.

Chief Toran stated that every job has been posted.

Mr. Messer stated that some firemen were taken out of their positions when Chief Toran took over.

Chief Toran asked Mr. Messer what he was referring to and asked if he works for the fire department.

Mr. Messer stated that he is just saying what the firemen told him

Mayor Garner stated that as the chief of the fire department it is his responsibly to run the firehouse to the best of its ability and if that involves moving a fireman around to other houses where he thinks they will be more productive then he has the right to do so. He explained that the firehouses belong to the City of New Albany and not the firemen and the chief manages those houses to the best of his ability. He stated that they aren't required to give any of the firemen permanent positions in the fire houses.

Mr. Messer asked if there was an arson investigator position open

Mayor Garner said no that Jerry Banet was their arson investigator.

Mr. Messer stated that Mr. Banet was not an arson investigator.

Chief Toran confirmed that Jerry Banet was an arson investigator.

ADJOURN:

There being no further business before the council, the meeting adjourned at 10:07 p.m.

Larry Kochert, President
Common Council, City of New Albany

ATTEST: _____
Marcey Wisman, City Clerk